



Federal Communications Commission  
Washington, D.C. 20554

March 31, 2008

**DA 08-762**

*In Reply Refer to:*

1800B3-JP

Released: March 31, 2008

Elizabeth H. Erickson  
190 SE Grizzly Road  
Madras, OR 97741

Re: **AM Broadcast Auction 84  
MX Group 84-26**

Madras, Oregon  
Facility ID No. 161067  
File No. BNP-20040130AHL

**Petition for Reconsideration**

Dear Ms. Erickson:

We have before us Elizabeth H. Erickson's ("Erickson") December 26, 2006, Petition for Reconsideration ("Petition") of a March 21, 2006, staff action dismissing Erickson's above-captioned application for a new AM station at Madras, Oregon.<sup>1</sup> As discussed below, Erickson's Petition is procedurally defective and will be dismissed.

**Background.** On June 15, 2005, the Media Bureau released a *Public Notice* containing a list of 802 MX AM Auction No. 84 window-filed Form 301 tech box applications.<sup>2</sup> The *June MX Public Notice* defined three categories of MX applications, detailed the filings required for each category, and specified a September 16, 2005, deadline for submitting the required filings to the Commission. This filing deadline was extended to October 31, 2005, because of Hurricane Katrina.<sup>3</sup> The *June MX Public Notice* cautioned that "the staff will dismiss, without further processing, the previously filed FCC Form 175 application... of any applicant which fails to file a settlement, technical amendment, or a Section 307(b) amendment by this date."<sup>4</sup>

Erickson's application for a new station at Madras, Oregon, was determined to be mutually exclusive with two other applications filed by RAMS I<sup>5</sup> and IHR Educational Broadcasting.<sup>6</sup> All three

---

<sup>1</sup> See *AM Auction No. 84 Mutually Exclusive Applications Dismissed for Either Failing to File or Untimely Filing of Section 307(b) Showing*, Public Notice, 21 FCC Rcd 2912 (MB 2006) ("March Dismissal Public Notice").

<sup>2</sup> See *AM Auction No. 84 Mutually Exclusive Applicants Subject to Auction, Settlement Period Announced for Certain Mutually Exclusive Application Groups; September 16, 2005 Deadline Established for Section 307(b) Submissions*, Public Notice, 20 FCC Rcd 10563 (MB 2005) ("June MX Public Notice").

<sup>3</sup> See *Auction No. 84 Settlement Period and Section 307(b) Submission Deadline Extended to October 31, 2005*, Public Notice, 20 FCC Rcd 14492 (MB 2005).

<sup>4</sup> *June MX Public Notice*, 20 FCC Rcd at 10566.

<sup>5</sup> File No. BNP-20040129AUS.

applications were designated MX Group 84-26, and categorized as a Category II MX group. Category II MX Groups were ineligible for settlement, and therefore, each applicant was directed to file a Section 307(b) showing by the filing deadline. Erickson filed a Section 307(b) showing on November 1, 2005, after the filing deadline. Erickson's late-filed Section 307(b) showing was not accompanied by a request for waiver of the filing deadline. Accordingly, Erickson's tech box application was dismissed by Public Notice on March 21, 2006, for failure to timely file a Section 307(b) showing.<sup>7</sup> Erickson filed a Petition for Reconsideration of the dismissal on December 26, 2006.

**Discussion.** Section 405 of the Communications Act of 1934, as amended (the "Act"),<sup>8</sup> and Section 1.106(f) of the Rules,<sup>9</sup> mandate that petitions for reconsideration must be filed no later than 30 days after public notice of the action for which reconsideration is sought. Public notice of the dismissal of Erickson's application was issued on March 21, 2006, yet Erickson did not file the petition for reconsideration until nine months after the public notice was released. The Commission generally lacks the authority to extend or waive the statutory 30-day filing period for petitions for reconsideration set forth in Section 405 of the Act. Although the Commission may not refuse to consider a late-filed petition for reconsideration if the petitioner shows that its failure to file for reconsideration in a timely manner resulted from "extraordinary circumstances,"<sup>10</sup> no such showing has been made here. Because Erickson's petition for reconsideration was untimely, it is procedurally defective and will be dismissed.

**Conclusion.** Accordingly, IT IS ORDERED that the Petition for Reconsideration filed by Elizabeth H. Erickson is DISMISSED.

Sincerely,

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

cc: J. Dominic Monahan, Esq.

---

<sup>6</sup> File No. BNP-20040130ADH

<sup>7</sup> *March Dismissal Public Notice.*

<sup>8</sup> 47 U.S.C. § 405.

<sup>9</sup> 47 C.F.R. § 1.106(f).

<sup>10</sup> *Gardner v. FCC*, 530 F.2d 1085, 1091-92 (D.C. Cir. 1976); *Richardson Independent School District*, Memorandum Opinion and Order, 5 FCC Rcd 3135, 3136 (1990); *Pueblo Radio Broadcasting Service*, Memorandum Opinion and Order, 6 FCC Rcd 1416 (1991) (the fact that petition for reconsideration was filed only one day late does not constitute "extraordinary circumstances" for which filing deadline may be extended).